

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY (NEWARK)

**Caption in Compliance with D.N.J. LBR 9004-1(b)**

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In Re:

**Bed Bath & Beyond, et al.,**

Debtors.<sup>1</sup>

Chapter 11

Case No. 23-13359 (MBK)  
Jointly Administered

Honorable Vincent F. Papalia

**LIMITED OBJECTION OF INFOR (US), LLC, TO  
NOTICE TO CONTRACT PARTIES TO POTENTIALLY  
ASSUMED EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

Infor (US), LLC (“Infor”), by and through its undersigned counsel, hereby files this limited objection (“Objection”) to the *Notice to Contract Parties to Potentially Assumed Executory Contracts and Unexpired Leases* (“Cure Notice”) [Docket No. 714], and in support thereof,

<sup>1</sup> The last four digits of Debtor Bed Bath & Beyond Inc.’s tax identification number are 0488. A complete list of the Debtors in these Chapter 11 Cases and each such Debtor’s tax identification number may be obtained on the website of the Debtors’ claims and noticing agent at <https://restructuring.ra.kroll.com/bbby>. The location of Debtor Bed Bath & Beyond Inc.’s principal place of business and the Debtors’ service address in these Chapter 11 Case is 650 Liberty Avenue, Union, New Jersey 07083.

respectfully states as follows:

### **BACKGROUND**

1. On April 23, 2023 (“Petition Date”), the above-captioned debtors (“Debtors”) filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code (“Bankruptcy Code”).

2. Infor, as successor in interest to Lawson Software, Inc., and Debtor Bed Bath & Beyond, Inc. (hereinafter, “BB&B”), are parties to that certain Lawson Software End User Agreement, dated February 24, 2006, including its addenda (collectively, the “Infor Software Agreement”). The Infor Software Agreement governs BB&B’s use of Infor’s S3 Lawson software and related support and services.

3. Infor and BB&B are also parties to that certain Subscription License and Services Agreement, with an effective date of July 6, 2016, (“SLSA”), and its accompanying SaaS Order Form (collectively, the “Infor License Agreement,” and together with the Infor Software Agreement,” the “Infor Agreements”).<sup>2</sup> The Infor License Agreement governs BB&B’s use of Infor’s GT Nexus Software and related support and services.

4. Debtors listed 14 agreements with Infor on lines 948 through 961 on the Cure Notice. Debtors listed 12 of the Infor agreements with no cure amounts and two of the Infor Agreements, described as “Infor Maintenance Renewal (Lawson) 2022” and “INFOR-BBBY CO Amend TM Alloc C3451 FINAL 10-16-20 – Fully executed,” with a cure amount of \$462,396.92 each. This amount matches the total amount that BB&B owes Infor pre-petition under the Infor Agreements. *See* Claim Schedule No. 5269510.<sup>3</sup>

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<sup>2</sup> The Infor Agreements contain confidential information and will be made available to the Court upon request and with appropriate protections to preserve the confidential information.

<sup>3</sup> Infor filed its proof of claim asserting these pre-petition amounts with Debtors’ claims agent on June 19, 2023, but Infor’s proof of claim has not posted on the claim agent’s claims registry, yet.

5. Infor cannot ascertain with certainty to which contracts the Cure Notice is referring and presumes Debtors' list of 14 agreements includes the Infor Agreements, which are the contracts under which Debtors' payment obligations to Infor arise.

6. Infor also presumes that the Debtors' listing two cure amounts for two separate Infor Agreements, each in the amount of \$462,396.92, is an erroneous duplication. However, even if Infor only listed one cure amount for \$462,396.92, the cure amount is still incorrect.

7. In addition to the \$462,396.92 in pre-petition amounts that Debtors owe Infor under the Infor Agreements, Debtors also owe Infor \$200,000 in a post-petition invoice that became due on May 24, 2023. Infor has provided Debtors' counsel with a copy of this post-petition invoice, and such invoice will be made available to the Court upon request.

8. Thus, the total amount that Debtors owe Infor is \$662,396.92—\$270,942.67 of which has become due and owing under the Infor Software Agreement, and the other \$391,454.25 of which has become due and owing under the Infor License Agreement.

### **LIMITED OBJECTION**

9. Section 365(b) of the Bankruptcy Code requires that a trustee (or a debtor-in-possession) fully cure all defaults existing at the time of assumption before that trustee or debtor-in-possession may assume an executory contract. *See* 11 U.S.C. §365(b)(1); *see also, In re Carlisle Homes, Inc.*, 103 B.R. 524, 538 (Bankr. D.N.J. 1988) ("In order for a debtor to assume a contract under § 365(b)(1), it must: (1) cure existing default or provide adequate assurance that cure will promptly occur, 365(b)(1)(A); (2) compensate any party to the agreement that has suffered actual pecuniary loss as a result of default, or provide adequate assurance of prompt compensation to the injured party, § 365(b)(1)(B); and (3) provide adequate assurance of future performance under the agreement before assumption will be permitted, § 365(b)(1)(c)."). This duty to cure includes both

pre-petition and post-petition defaults. *See In re Seven Hills, Inc.*, 403 B.R. 327, 335 (Bkrctcy. D.N.J., 2009).

10. The Debtors list the cure amount for the Infor Agreements as \$462,396.92, but the total cure amount owing to Infor as of the date of this Objection is \$662,396.92—\$270,942.67 of which has become due and owing under the Infor Software Agreement, and the other \$391,454.25 of which has become due and owing under the Infor License Agreement.

11. Infor reserves the right to amend, modify, or supplement this Objection and to raise additional arguments and objections to the assumption of the Infor Agreements.

**WHEREFORE**, Infor requests that the Court sustain this Objection and grant Infor such additional relief that is just and equitable.

Dated: June 23, 2023

Respectfully submitted,

BARNES & THORNBURG LLP

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